

**MINUTES  
REGULAR BOARD MEETING  
THURSDAY, JANUARY 18, 2007, 9:00 A.M.**

Board Members Present at Roll Call: Les Abrams, Gabe Corral, Lee Ann Elliott, Charlie Havranek, Cynthia Henry, Debbie Rudd, Sarah Vetault. A quorum was present. Board Members Present After Roll Call: Rod Bolden, Myra Jefferson. Board Members Absent: None.

Also Present at Roll Call: Debb Pearson, Executive Director; Beckie Loar, Regulatory Compliance Administrator; Elizabeth Campbell, Assistant Attorney General. Also present after Roll Call: Christopher Munns, Assistant Attorney General, Solicitor General's office.

Les Abrams acted as Chairperson. Les Abrams introduced new Board members, Charlie Havranek and Debbie Rudd.

The Board pledged allegiance to the flag of the United States of America.

Lee Ann Elliott moved that the Minutes of the December 14, 2006, Regular Board Meeting be approved. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Rod Bolden joined the meeting.

**PUBLIC ANNOUNCEMENTS AND CALL TO PUBLIC**

None.

**PUBLIC HEARING CONCERNING PROPOSED BOARD CHANGES TO ARIZONA ADMINISTRATIVE CODE, TITLE 4, PROFESSIONS AND OCCUPATIONS, CHAPTER 46, BOARD OF APPRAISAL, ARTICLE 1, GENERAL PROVISIONS, SECTION R4-46-101; AND ARTICLE 2, LICENSING AND CERTIFICATION, SECTIONS R4-46-201, R4-46-201, R4-46-203, R4-46-204, R4-46-205, R4-46-206, R4-46-207, R4-46-208, R4-46-209, AND R4-46-210**

Public Comments: Elaine Arena, Phoenix Chapter of the Appraisal Institute, and Ann Susko, appraiser, appeared and commented in favor of the proposed Board changes.

Lee Ann Elliott moved that the Board close the record, adopt the proposed rule changes, as corrected, and proceed with the Notice of Final Rulemaking. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. The correction is to R4-46-201(D)(4) which eliminates "licensed" consistent with the proposed revision to definition of "supervising appraiser". The proposed rules to proceed to final rulemaking will read as follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 1. GENERAL PROVISIONS**

**R4-46-101. Definitions**

In these rules, unless the context otherwise requires:

"Arizona or State Certified General Appraiser". No change.

"Arizona or State Certified Residential Appraiser". No change.

"Arizona or State Licensed Appraiser". No change.

"Appraisal Foundation". No change.

"Appraiser". No change.

"Board". No change.

"Board counsel". No change.

"Board staff". No change.

"Complaint". No change.

"Consent agreement". No change.

"Consulting assignment". No change.

"Conviction". No change.

"Course provider". No change.

"Direct supervision" means that a supervising appraiser is physically present to direct and oversee the production of each appraisal assignment. ~~This definition is effective January 1, 2007, consistent with R4-46-201(G).~~

"Disciplinary action". No change.

"Dismissal". No change.

"Distance education". No change.

"Due diligence". No change.

"Formal complaint". No change.

"Formal hearing". No change.

"Informal hearing". No change.

"Informational interview". No change.

"Initial review". No change.

"Investigation". No change.

"Investigator". No change.

"Jurisdictional criteria". No change.

"Letter of concern". No change.

"Letter of due diligence". No change.

"Letter of remedial action". No change.

"Mentor". No change.

"Order". No change.

"Party". No change.

"Practicing appraiser" means a state licensed or certified appraiser who is actively engaged in performing appraisal assignments. ~~This definition is effective January 1, 2007, consistent with R4 46-201(G).~~

"Probation". No change.

"Property tax agent". No change.

"Remedial action". No change.

"Respondent". No change.

"Rules". No change.

"Summary suspension". No change.

"Supervising appraiser" means a state ~~licensed or~~ certified appraiser in good standing with a minimum of four years of experience within the last four years as a practicing appraiser who engages in direct supervision of a trainee pursuing a state license or certificate and provides training for work included within the supervising appraiser's classification. ~~This definition is effective January 1, 2007, consistent with R4 46-201(G).~~

"Trainee" means an individual who is being taught to become a state licensed or certified appraiser under the direct supervision of a supervising appraiser. ~~This definition is effective January 1, 2007, consistent with R4 46-201(G).~~

"USPAP". No change.

"Workfile". No change.

## ARTICLE 2. LICENSING AND CERTIFICATION

### R4-46-201. Appraiser Qualification Criteria

A. Except as provided in subsections (B), (C), ~~and (D), (E), and (F)~~, an applicant for the applicable classification of license or certificate ~~should~~ shall meet that classification's criteria, established by the Appraiser Qualifications Board (AOB); in either The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2002, and Appendix I, Criteria Revisions effective January 1, 2003, ~~("1998 Criteria")~~, or The Real Property Appraiser Qualification Criteria Adopted January 1, 2003, All Interpretations And Supplementary Information As Of November 1, 2005, And Appendix, Real Property Qualifications Effective January 1, 2008 ("2008 Criteria"), ~~which are incorporated by reference and on file with the Board.~~ as follows:

1. The requirements are divided into three components: education, experience and examination. An applicant shall meet the criteria in effect at the time he completes a particular component through and including October 31, 2008.
2. An applicant shall meet either the 1998 Criteria or the 2008 Criteria for any component completed prior to January 1, 2008.
3. An applicant shall meet the 2008 Criteria for any component completed on or after January 1, 2008, through and including October 31, 2008.

4. On and after November 1, 2008, an applicant shall meet the 2008 Criteria for all components, regardless of when the component was completed. Both the 1998 Criteria and the 2008 Criteria are incorporated by reference and are on file with the Board. ~~This~~These incorporated ~~material~~ criteria include no future additions or amendments. A copy of the incorporated ~~material~~ criteria may be obtained from the Board or The Appraisal Foundation.
- ~~B.~~ ~~The incorporated material in subsection (A) does not govern an appraiser's scope of practice. The scope of practice for each classification of license or certificate is provided in A.R.S. § 32-3612(A). The incorporated material in subsection (A) does not govern the minimum amount of experience, measured in hours or years, necessary for certification. The minimum experience required for certification is provided in A.R.S. § 32-3615(A).~~
- ~~C.~~ ~~An applicant for any classification of a license or certificate shall complete at least three hours of course work covering A.R.S. Title 32, Chapter 36 and these rules.~~
- ~~DB.~~ Regardless of whether a transaction is federally related:
  1. A State Licensed Residential Appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(3), and
  2. A State Certified Residential Appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(2).
- ~~EC.~~ Notwithstanding the criteria incorporated by reference in subsection (A),
  - ~~1. The American Council on Education's Program on Noncollegiate Sponsored Instruction (ACE/Credit Program) is not an approved organization for distance education course reviews,~~
  - ~~21.~~ 2. An applicant shall not obtain more than 75% of required qualifying education through distance education, ~~and~~
  - ~~32.~~ 3. An applicant shall not obtain the 15-hour National USPAP Course, or its equivalent, approved through the AQB Course Approval Program, through distance education-, ~~and~~
  3. Qualifying education credit may be obtained at any time before the date of application, except the 15-hour National USPAP Course or its AQB approved equivalent must be obtained within two years preceding the date of application.
- ~~FD.~~ Notwithstanding the criteria incorporated by reference in subsection (A), there is no Trainee Real Property Appraiser Classification.
  1. A supervising appraiser shall instruct and directly supervise a trainee for any classification of license or certificate in the entire preparation of each appraisal. The supervising appraiser shall approve and sign all final appraisal documents. To demonstrate responsibility for the instruction, guidance, and direct supervision of the trainee, the supervising appraiser shall:

- a. Sign the appraisal report and certify the report is in compliance with the Uniform Standards of Professional Appraisal Practice,
  - b. Personally supervise the entire physical inspection of each appraised property with the trainee, and
  - c. Review and sign each trainee appraisal report.
2. A trainee may have more than one supervising appraiser, but a supervising appraiser shall not supervise more than three trainees at any one time. A trainee shall maintain an appraisal log for each supervising appraiser and, at a minimum, include the following in the log for each appraisal:
- a. Type of property,
  - b. Date of report,
  - c. Property description,
  - d. Description of work performed by the trainee and scope of review and supervision by the supervising appraiser,
  - e. Number of actual work hours by the trainee on the assignment, and
  - f. The signature and state license or certificate number of the supervising appraiser.
3. A supervising appraiser and trainee shall work in the same geographic area, and in no event shall the supervising appraiser and trainee work in different states.
4. A supervising appraiser shall provide to the Board in writing the name and address of each trainee within 10 days of engagement, and notify the Board in writing immediately upon termination of the engagement. A state ~~licensed~~ or certified appraiser is not eligible to be a supervising appraiser unless the appraiser's ~~license or~~ certificate is in good standing and the appraiser has not been subject to license or certificate suspension, probation, or mentorship within the last two years.

**G.** ~~Subsection (F) is effective January 1, 2007.~~

**R4-46-202. Application for License or Certificate**

- A.** An applicant for a state certificate or license shall submit a completed application accompanied by the required application fee. Once the application has been filed, fees are ~~non-refundable~~ nonrefundable, unless A.R.S. § 41-1077 is applicable.
- B.** To be eligible for a license or certificate, an applicant shall:
1. Meet the qualification criteria contained in A.R.S. Title 32, Chapter 36, Article 2 and these rules;
  2. Achieve a passing score on the applicable examination required by R4-46-204(D), unless exempted under A.R.S. § 32-3626;
  3. Pay all required application and examination fees;
  4. Pay the biennial ~~federal~~ national registry fee; ~~and~~ .
  5. ~~Comply with the requirements of A.R.S. § 32-3611.~~

- C. In addition to the requirements listed in subsection (B), an applicant for licensure shall demonstrate 2,000 hours of experience earned in not less than 18 months.
- D. An applicant shall meet all requirements for a license or certificate within one year of filing the application or the applicant's file will be closed and the applicant shall reapply, meeting the requirements of R4-46-202(B). The Board shall notify an applicant whose application has been closed by certified mail or personal service at the applicant's last known address of record. Notice is complete upon deposit in the U.S. mail or by service as permitted under the Arizona Rules of Civil Procedure.

**R4-46-203. Procedures for Processing Applications**

- A. To comply with A.R.S. Title 41, Chapter 6, Article 7.1, the Board establishes the following time-frames for processing license and certificate applications, including renewal applications:
  - 1. The Board shall notify the applicant within 45 days of receipt of the application that it is either administratively complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
  - 2. The Board shall not substantively review an application until the applicant has fully complied with the requirements of ~~R4-46-202~~ R4-46-202(A). The Board shall render a final decision not later than 45 days after the applicant successfully completes all requirements of ~~R4-46-202~~ R4-46-202(A).
  - 3. Although the applicant may have up to one year to comply with requirements of R4-46-202, the overall time-frame for Board action is 90 days, 45 days for administrative completeness review and 45 days for substantive review.
- B. If the Board denies a license, the Board shall send the applicant written notice explaining:
  - 1. The reason for denial, with citations to supporting statutes or rules;
  - 2. The applicant's right to seek a hearing to challenge the denial; and
  - 3. The time periods for appealing the denial.

**R4-46-204. Appraiser Examinations**

- A. ~~The Board shall not allow an applicant to schedule an examination until the applicant has completed all of the prerequisite education requirements. An applicant may schedule an examination once he has completed the experience and education components specified in R4-46-201.~~
- B. ~~If the test provider does not allow for a test on demand, an applicant shall file an application to take an examination at least 45 days before the examination date.~~
- C. ~~Rescheduling; excused absence; forfeiture~~
  - 1. ~~Except as provided in subsections (C)(2) and (3), the Board shall not provide an applicant scheduled for an examination date with a later~~

- examination date unless the applicant files a new application and pays a reexamination fee.
2. ~~The Board may grant an excused absence from a scheduled examination if the applicant provides evidence satisfactory to the Board that the absence was the direct result of an emergency situation or condition that was beyond the applicant's control and that could not have been reasonably foreseen by the applicant. An applicant shall promptly make a request for an excused absence in writing and support the request with documentation verifying the reason for the absence. The Board shall deny a request for an excused absence received more than 15 days after the examination date unless the applicant was unable to file a timely request due to the same circumstances that prevented the applicant from taking the examination.~~
3. ~~An applicant may request that the applicant's examination date be rescheduled if the request is made at least 15 days before the originally scheduled examination date.~~
- DB.** ~~Subject Matter.~~ An applicant shall take an examination for the applicable classification of license or certificate that covers the subject matter in the real property appraiser examination for the applicable classification endorsed by the Appraiser Qualifications Board. successfully complete the Appraiser Qualifications Board endorsed uniform state appraiser examination or its equivalent for the applicable classification approved by the Board.
- EC.** ~~Reexamination.~~ An applicant for a license or certificate who fails to pass an examination or fails to appear for a scheduled examination may schedule another examination by filing a new examination application and paying the examination fee.

**R4-46-205. Issuance of a License or Certificate**

An applicant who has met the appraiser qualification criteria prescribed in ~~R4-46-202(B), achieved a passing score on the applicable examination, and paid the application and biennial federal registry fees R4-46-202,~~ shall be issued a license or certificate which entitles the applicant to practice as an ~~Appraiser~~ appraiser for the term of the license or certificate.

**R4-46-206. Hearing on Denial of a License or Certificate**

~~Pursuant to A.R.S. § 41-1092.03, any~~ Any applicant denied a license or certificate by the Board may file a written request for hearing, ~~within 30 days after issuance of the notice of denial.~~ pursuant to A.R.S. § 41-1092.03. Any hearing shall be conducted under the formal hearing procedures prescribed in Article 3 of these rules; A.R.S. Title 41, Chapter 6, Article 10; and 2 A.A.C. 19.

**R4-46-207. Renewal of a License or Certificate**

- A. ~~Not later than 30 days before expiration of an appraiser's license or certificate, an~~ An appraiser seeking to renew ~~the~~ a license or certificate shall submit a completed

application accompanied by the required renewal application fees pursuant to A.R.S. § 32-3619 and R4-46-106. Once the application has been filed, fees are nonrefundable, unless A.R.S. § 41-1077 is applicable. To be eligible for renewal of a license or certificate, an applicant shall:

1. Meet the requirements of A.R.S. Title 32, Chapter 36, and these rules;
2. Meet the continuing education requirements in The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria ~~adopted February 16, 1994, effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2002, and Appendix I, Criteria Revisions effective January 1, 2003,~~ which is incorporated by reference in R4-46-201(A), except:
  - a. The Board shall not grant credit toward the classroom hour requirement unless the length of the educational offering is at least three hours,
  - b. ~~The American Council on Education's Program on Noncollegiate Sponsored Instruction (ACE/Credit Program) is not an approved organization for distance education course reviews, and~~ A renewal applicant shall not obtain the 7-hour National USPAP Update Course, or its equivalent, approved through the AQB course approval program, through distance education; and
  - c. A renewal applicant shall not obtain more than ~~75 percent~~ 75% of required continuing education through distance education; and
3. Pay the renewal and biennial ~~federal~~ national registry fees.

**B.** ~~A renewal applicant shall demonstrate completion of a minimum of 14 hours of course work consisting of two 7 hour National USPAP Update Courses, or their equivalent, approved through the AQB Course Approval Program, within four years before expiration of the license or certificate. A course used to satisfy this requirement cannot be used to satisfy the continuing education requirements in subsection (A)(2) unless the course was completed within the two years before the expiration of the license or certificate. Each appraiser shall successfully complete the 7 hour National USPAP Update Course, or its equivalent, approved through the AQB Course Approval Program, at least every two years. A renewal applicant shall not substitute the 15 hour National USPAP Course, or its equivalent, approved through the AQB Course Approval Program, for the 7 hour National USPAP Update Course, or its equivalent, approved through the AQB Course Approval Program.~~

**B.** The same course cannot be repeated for use as continuing education within a renewal period, with the exception of USPAP.

**C.** Appraisers may receive up to 50% of continuing education credit for course instruction of Board approved course(s) per renewal period.

**CD.** If the last day for filing falls on a Saturday, Sunday, or legal holiday, an appraiser may file the renewal form on the next business day.



- E. An appraiser who fails to seek renewal within the time periods specified in A.R.S. § 32-3619 shall reapply and meet the requirements of R4-46-202.

**R4-46-208. Renewal of an Expired License or Certificate Repealed**

- A.** ~~An appraiser may renew a license or certificate that has expired within 90 days of expiration. If the last day falls on a Saturday, Sunday, or legal holiday, the appraiser may file a renewal on the next business day.~~
- B.** ~~To apply for renewal of an expired license within the 90 day period, an appraiser shall comply with the requirements of R4-46-207 and submit the delinquent renewal fee prescribed by R4-46-106. Once an application for renewal of an expired license or certificate has been filed, fees are nonrefundable, unless A.R.S. § 41-1077 is applicable.~~
- C.** ~~An appraiser who fails to seek renewal within the time prescribed by this rule shall re-apply and meet the requirements of R4-46-202(B).~~

**R4-46-209. Replacement License or Certificate**

If an original license or certificate has been lost, damaged, or destroyed, or if the name of a licensee or certificate holder has been legally changed, the ~~Appraiser~~ appraiser may obtain a replacement license or certificate by filing the applicable form and paying ~~a copying~~ the applicable fee to the Board.

**R4-46-210. Change of Address Repealed**

~~Appraisers and applicants for a license or certificate shall notify the Board in writing of any change in permanent business or residence address within 10 business days of the change.~~

**PUBLIC HEARING CONCERNING PROPOSED BOARD CHANGES TO ARIZONA ADMINISTRATIVE CODE, TITLE 4, PROFESSIONS AND OCCUPATIONS, CHAPTER 46, BOARD OF APPRAISAL, ARTICLE 1, GENERAL PROVISIONS, SECTION R4-46-104 AND R4-46-105; AND ARTICLE 3, HEARINGS AND DISCIPLINARY PROCEEDINGS, SECTIONS R4-46-301, R4-46-302, R4-46-304, R4-46-306; AND ARTICLE 6, PROPERTY TAX AGENTS, SECTIONS R4-46-601 AND R4-46-602**

Public Comments: Elaine Arena, Phoenix Chapter of the Appraisal Institute, and Ann Susko, appraiser, appeared and commented in favor of the proposed Board changes.

Lee Ann Elliott moved that the Board close the record, adopt the proposed rule changes and proceed with the Notice of Final Rulemaking. Charlie Havranek seconded the motion. The Board voted unanimously in favor of the motion. The proposed rules to proceed to final rulemaking will read as follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 1. GENERAL PROVISIONS**

**R4-46-104. Confidential Records Repealed**

~~Except as otherwise provided by law, the Board shall not disclose:~~

- ~~1. Questions contained in any examination administered by or for the Board or in any examination submitted to the Board for course approval;~~
- ~~2. Questions asked and the answers of individual examinees. However, the Board shall provide the grades of each examinee for public inspection and copying, on and after the date set by the Board for the release of examination results;~~
- ~~3. Minutes of the Board's executive sessions; and~~
- ~~4. Appraisal reports or appraisal reviews and supporting documentation deemed confidential under USPAP and adopted by the Board.~~

**R4-46-105. Meetings Repealed**

~~Pursuant to A.R.S. 32-3604(F), the Board shall meet at least once each calendar quarter to conduct general business. Special meetings of the Board may be held at any time subject to the call of the chairman or a majority of the Board members.~~

**ARTICLE 3. HEARINGS AND DISCIPLINARY PROCEEDINGS**

**R4-46-301. Complaints; Investigations; Informal Proceedings; Summary Suspensions; Refusal to Appear**

**A. Complaints**

1. The Board shall investigate a written complaint, including an anonymous complaint or a complaint made on the Board's own motion, alleging violations of A.R.S. Title 32, Chapter 36, or this Chapter, if the complaint provides information that meets the minimum criteria. Minimum criteria for a complaint include but are not limited to:
  - a. The name of the respondent against whom allegations are being made;
  - b. The action that is the basis of the complaint;
  - c. The time-frame in which the action occurred;
  - d. Each violation alleged to have been committed by the respondent; and
  - e. A copy of the report, if the complaint includes allegations concerning an appraisal, consulting assignment, or property tax appeal.
2. Upon receipt of a complaint:
  - a. Board staff shall review the complaint and determine, in consultation with Board counsel if necessary, whether the complaint meets jurisdictional criteria and if so, which edition of USPAP is applicable.

- b. Within 14 days after receipt of a complaint the Board shall notify the respondent, as prescribed in A.R.S. § 41-1092.04, of the complaint and the requirement that the respondent file a written response within 30 days from the date on the notice. The Board shall provide a copy of the complaint with the notice and request that the respondent address the issues in the complaint. In the notice, the Board shall require that the respondent additionally provide all of the following to the Board: the appraisal report, appraisal review, consulting assignment, or property tax appeal at issue; and the workfile.
- c. If the respondent requests more time to respond, the Board shall grant a single extension of time that does not exceed 30 days.

**B. Initial Review and Investigation**

- 1. Within 75 days after receipt of a response or expiration of the time for response, the Board shall conduct an initial review of the matter to determine whether further investigation is necessary. If the Board determines further investigation is necessary, the Board may employ an investigator or investigators and shall notify the respondent of the pending investigation.
- 2. If a respondent's name is placed on a public meeting agenda, the Board shall mail a letter to the respondent not less than seven days before the scheduled meeting, providing the respondent with a copy of the posted notice of the public meeting.
- 3. If the respondent is present at the initial review, the Board may request that the respondent participate in an informational interview. A respondent may refuse to participate in an informational interview. The Board may use any information presented at the informational interview in other proceedings related to the complaint.
- 4. At the initial review, the Board shall consider the complaint, any response; the appraisal report, appraisal review, consulting assignment, or property tax appeal; and the workfile. The Board may dismiss the matter, request or subpoena additional information, order a limited or full investigation, or invite the respondent to an informal hearing, based on the information reviewed.
- 5. Board staff shall assign each investigator according to the investigator's experience, expertise, contract terms, and availability. Board staff shall select an investigator who ~~is not associated~~ does not have a business or familial relationship with the respondent. Each investigative report shall contain the signed certification specified in subsection (B)(6). An investigator's draft report is considered work product and is, therefore, confidential. The Board may ask for clarification or additional information after review of a draft report. Upon acceptance by the Board, an

investigative report is considered final. The Board may adopt any or all of the findings in the final report at a public meeting and may consider any additional, relevant information that is discovered before the matter is resolved. The investigative report becomes nonconfidential upon resolution of the complaint involved.

6. The following certification shall be included in every investigative report prepared for the Board and signed by the investigator; I certify that, to the best of my knowledge and belief:

- a. The statements of fact contained in this report are true and correct.
- b. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and they are my personal, impartial and unbiased professional analyses, opinions, conclusions, and recommendations.
- c. I have no present or prospective interest in the property that is the subject of this investigation, and I have no personal interest with respect to the parties involved in this investigation.
- d. I have no bias with respect to any property that is the subject of this investigation or to the parties involved in this investigation.
- e. My engagement for this investigation was not contingent upon developing or reporting any predetermined result or outcome.
- f. My compensation for this investigation is not contingent upon developing or reporting any predetermined result or outcome, nor have I been instructed as to any predetermined result or outcome by the Board, the Board staff, or other parties.
- g. I have (or have not) made a personal inspection of the property that is the subject of this investigation.

C. Settlement. Any time after a complaint has been filed against a respondent, the matter may be resolved by a settlement in which the respondent agrees to accept disciplinary or remedial action by consent ~~in lieu of a disciplinary order~~. If the Board determines that the proposed settlement will adequately protect the public, the Board may ~~accept the offer, and enter into a consent agreement with the respondent, incorporating the proposed settlement into the agreement~~. A statement made for the purpose of settlement is not admissible in a formal hearing.

D. Informal Hearing; Disciplinary Action

1. If, based on the initial review or its review of the investigative report, the Board determines that the respondent is or may be in violation of the Board's statutes or rules, the Board may request a voluntary informal hearing with the respondent. The Board shall provide the respondent with a copy of any final investigative report in the matter, any supporting documentation, and notice of the date, time, and location of the informal hearing, as prescribed in A.R.S. § 41-1092.04, at least 30 days before the

informal hearing. The notice of informal hearing shall include all of the following:

- a. A statement of the matters asserted and issues involved;
  - b. Any request for additional information needed by the Board to prepare for the hearing;
  - c. An explanation of the respondent's right to appear voluntarily with or without legal counsel; and
  - d. An explanation of the respondent's right to a formal hearing under R4-46-302.
2. The Board shall provide a copy of the informational material "Introduction to Informal Hearing," which explains the rights and responsibilities of the Board and respondent during the informal hearing. (A copy is also available at the Board office).
  3. The respondent may request and the Board may grant a continuance ~~that does not exceed 30 days~~ upon a showing of good cause. During the informal hearing the Board shall swear witnesses, question the respondent and witnesses, and deliberate. The respondent may respond to the Board's questions, present witnesses, and ask questions of the Board and all witnesses regarding the matter before it.
  4. If the Board finds a violation of the statutes or rules, but the violation is not of sufficient seriousness to merit suspension or revocation, it may take one or more of the following actions:
    - a. Issue a letter of concern;
    - b. Issue a letter of remedial action;
    - c. ~~Issue~~ Offer a letter of due diligence, which may or may not include remedial action;
    - d. ~~Set~~ Offer a consent agreement including an order of discipline that sets a time period and terms of probation sufficient to protect the public welfare and safety and educate the respondent. The Board may require one or more of the following as terms of probation:
      - i. Training or education;
      - ii. Supervision or mentor review;
      - iii. Restriction on the nature and scope of the respondent's practice; or
      - iv. Other reasonable measures designed to protect the public and educate the respondent.
  5. For any Board action other than a letter of concern or a letter of remedial action, the Board shall request that the respondent sign a consent agreement, which may include findings of fact and conclusions of law, depending on the severity of the violation, but shall identify and explain each violation found. If the respondent is aggrieved by the ~~outcome of the informal hearing~~ Board's decision to issue a letter of concern or letter of

remedial action, the respondent may request a formal hearing in writing, within 30 days from the date the written notice of the outcome of the informal hearing is received.

6. In resolving a complaint, the Board shall consider mitigating and aggravating circumstances, including but not limited to:
  - a. Whether a violation is intentional;
  - b. Whether the respondent has a prior disciplinary history;
  - c. The time that has elapsed since the violation, and any prior violation;
  - d. Whether any prior violation is similar to the present violation;
  - e. The complexity of the assignment;
  - f. Whether the assignment was outside the respondent's competence; and
  - g. Whether the respondent has taken courses after a violation to prevent future violations.
- E. Summary Suspension. If the Board finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the Board may order a summary suspension pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the respondent with a written notice of summary suspension and formal hearing, listing the charges against the respondent and setting the date for the formal hearing as soon as is reasonably possible, but in no event more than 60 days from service of the written notice.
- F. Refusal to Appear. A respondent may refuse a request to appear at an informal hearing. If the respondent refuses to appear or does not appear, the Board may schedule the matter for a formal hearing.
- G. 12-Month Review. If a matter is not resolved within 12 months from receipt of the response, the Board shall schedule the matter for review at each regularly scheduled Board meeting to determine whether good cause exists to continue the investigation. If, after completing its investigation, the Board finds that further action against the respondent is not warranted, the Board shall dismiss the matter.

**R4-46-302. Formal Hearing Procedures**

- A. The Board shall issue a notice of hearing and formal complaint for formal disciplinary proceedings if:
  1. After an informal hearing, the Board determines that suspension or revocation may be warranted;
  2. After an informal hearing, the respondent refuses to sign a letter of due diligence or consent agreement offered by the Board;
  - ~~3.~~ The respondent is aggrieved by the Board's decision in an informal hearing; or

~~34.~~ After completing its investigation, the Board finds that suspension or revocation may be warranted.

- B. Except as provided in R4-46-301(E), the Board shall provide notice of a formal hearing to a respondent at least 30 days before the date set for the hearing. The Board shall notify the respondent by certified mail or personal service at the respondent's last known address of record. Unless otherwise specified, any notice provided for in these rules is complete upon deposit in the U.S. mail or by service as permitted under A.R.S. ' 41-1092.04.
- C. On its own motion or the motion of a party, the Board may hear a case or have the case heard by an administrative law judge. The Board may accept, reject, or modify the administrative law judge's recommended decision as prescribed by A.R.S. ' 41-1092.08, and shall issue a final order.
- D. Board Hearings
  - 1. The Board may conduct a hearing without adherence to the rules of evidence used in civil proceedings. The Board shall include the respondent's application and disciplinary records as evidence in the hearing record.
  - 2. In all hearings required or permitted by statute, order of the Board, or these rules, the party seeking relief has the burden of proof and will present evidence first.
  - 3. The Board shall conduct each formal hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- E. ~~Failure to Appear.~~ If a party fails to appear for a formal hearing without good cause, the Board shall act upon the evidence without further notice.
- F. The Board shall make and keep a record of the hearing and, in the case of disciplinary hearings or if requested by a party or ordered by the Board, a transcript shall be prepared and filed with the Board. If the transcript is prepared at the request of a party, the party making the request shall pay for the cost of the transcript, unless the Board, for good cause shown waives assessment of this cost.
- G. A party may request and the Board may grant a continuance of a hearing date or any other deadline imposed by R4-46-302 upon a showing of good cause.

**R4-46-304. Conviction and Judgment Disclosure**

- A. When an ~~Appraiser, Property Tax Agent, or Course Provider~~ appraiser or property tax agent is convicted of any act which is or would be punishable as a felony, ~~crime involving moral turpitude in this state, or any crime which is substantially related to the respective qualifications, functions, and duties of an Appraiser, Property Tax Agent, or Course Provider~~ appraiser or property tax agent, the convicted person shall notify the Board within 20 days of entry of a plea of guilty or conviction.
- B. When a civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal or ~~mass appraisal~~ is entered against an ~~Appraiser, Property Tax Agent, or Course Provider~~ appraiser or property tax agent, the person against whom the

~~judgement-judgment~~ entered shall notify the board within 20 days of entry of ~~judgement-judgment~~.

**R4-46-305. Terms And Conditions Of Reapplication after Revocation**

- A. An applicant who ~~re-applies~~ reapplies after revocation of a license, certificate, or course approval, shall submit an application for license, certificate, or course approval consistent with these rules. The applicant shall attach substantial evidence to the application that the issuance of a license, certificate, or course approval will no longer constitute a threat to the public welfare and safety.
- B. The Board shall make a determination of each application that is consistent with the public safety and welfare.

**R4-46-306. Complaint Information Availability**

- A. Every six months, the Board shall generate a report for publication on the Board's web site or in a newsletter that indicates for that period the number of:
1. Complaints received,
  2. Complaints dismissed,
  3. Complaints referred for investigation, and
  4. Complaints referred for informal or formal hearing.
- B. In preparing the report, the Board shall include the severity level of violations ~~found;~~ ~~the suggested complaint resolution according with reference~~ to the Board Complaint Resolution Chart (a copy is available at the Board office); the actual complaint resolution implemented by the Board; and any other information that the Board deems useful to appraisers, property tax agents, and the public.

**ARTICLE 6. PROPERTY TAX AGENTS**

**R4-46-601. Standards of Practice**

The Board may revoke or suspend an agent's registration or otherwise discipline a ~~Property Tax Agent~~ property tax agent to the extent permitted by A.R.S. ' 32-3654 for any of the following acts or omissions:

1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;
4. Violating the confidential nature of the ~~Property Tax Agent-client relationship~~ property tax agent-client relationship, except as required by law;
5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;



6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;
8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
10. Promoting a tax agent practice and soliciting assignments by using misleading or false advertising;
11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without prior analysis of the facts;
12. Performing an appraisal as defined by A.R.S. ' 32-3601 unless licensed or certified by the Board as an appraiser.

**R4-46-602. Disciplinary Proceedings; Board Action; Notice Requirements**

The Board shall process all hearings and disciplinary matters involving ~~Property Tax Agents~~ property tax agents in a manner consistent with the formal hearing procedures prescribed by Article 3 and consistent with A.R.S. ' 32-3654.

**PUBLIC HEARING CONCERNING PROPOSED BOARD CHANGES TO ARIZONA ADMINISTRATIVE CODE, TITLE 4, PROFESSIONS AND OCCUPATIONS, CHAPTER 46, BOARD OF APPRAISAL, ARTICLE 5, COURSE APPROVAL, SECTIONS R4-46-501 AND R4-46-503**

Public Comments: Elaine Arena, Phoenix Chapter of the Appraisal Institute, and Ann Susko, appraiser, appeared and commented in favor of the proposed Board changes.

Lee Ann Elliott moved that the Board close the record, adopt the proposed rule changes, as corrected, and proceed with the Notice of Final Rulemaking. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. The correction is to R4-46-501(L) to include current language inadvertently omitted from the proposed revision. The proposed rules to proceed to final rulemaking will read as follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 5. COURSE APPROVAL**

**R4-46-501. Course Approval**

- A.** ~~A Course Provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. A course shall be approved under~~

these rules as either qualifying or continuing education. In order to be approved as qualifying or continuing education, the course must be found to satisfy all the respective criteria set forth in the real property appraiser qualification criteria and interpretations of the criteria incorporated by reference in R4-46-201(A), except:

1. The 15-hour National USPAP Course or its equivalent approved through the AQB Course Approval Program shall not be in the form of distance education;
  2. Only continuing education courses of at least three hours shall be considered for approval.
- B. Each approved course shall be assigned an index number and shall be assigned a maximum number of hours of instruction (including examination time if applicable).
- C. Upon receipt of course approval, the course provider may represent in any advertising or other materials that the course is a Board approved course, provided that the number of hours approved by the Board is also clearly indicated when the number of credit hours approved is less than the actual number of scheduled hours.
- D. Any school, organization, person or other entity that owns the proprietary rights to a course is eligible to apply for course approval as a course provider. All applications for course approval shall be submitted by a course provider. For the purposes of these rules, the following are considered to be a course provider:
1. An entity that owns a course and that conducts the course directly or through affiliated entities.
  2. An affiliated entity of a course provider having Board approval where such affiliated entity conducts the same course.
  3. An entity that has purchased or otherwise lawfully acquired from the course provider of a Board approved course, the course materials for such course and that has the right to independently conduct a course using such acquired course materials.
- E. Course approval granted to a course provider shall apply to any affiliated entity subject to the following conditions:
1. The course provider required the affiliated entity to conduct the course:
    - a. Utilizing the course provider's course materials (including textbook and examinations, if any);
    - b. Allowing the same number of approved hours as the course provider;
    - c. The instructor is approved by the Board;
    - d. In accordance with the course provider's policies relating to student attendance, course scheduling and course prerequisites (if applicable).
  2. The course provider assumes full responsibility in the event the affiliated entity violates any provisions of these rules.
- F. Course approval commences on the date initial approval is granted by the Board. Course approval by the Board shall not be granted for courses which have been

offered by the course provider prior to the Board's review of the course approval application.

- G.** A ~~course provider~~ course provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. Once the application has been filed, fees are nonrefundable. An application must be complete before it will be placed on an agenda for approval.

**H.** A course provider shall not misrepresent Board approval status in advertising.

**B.** The following requirements apply to courses submitted for approval:

1. The Course Provider shall follow education standards set forth in the Appraiser Qualification Criteria.

2. The Course Provider ~~course provider~~ shall use submit with the application an outline, and a text or other written materials. the course provider shall furnish the Board with the outline, text, or other written material at the time of application. Lack of documentation may result in the delay or denial of course approval. In order to be approved, the course must be found to satisfy the following requirements:

1. Course description: the course materials or syllabus must include a course description which clearly describes the content of the course.

2. Summary outline: the course materials or syllabus shall include a summary outline of major topics and the number of classroom hours devoted to each major topic.

3. Learning objectives: the course materials or syllabus shall include specific learning objectives which:

a. Clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;

b. Are consistent with the course description;

c. Are consistent with the textbook and/or other instructional materials;

d. Are reasonably achievable within the number of classroom hours allotted for the course;

e. For qualifying education courses, shall clearly identify the required core curriculum, the module subtopic, and the number of course hours; and

f. For continuing education courses, shall clearly identify the appraisal topic and the number of course hours.

4. Instructional materials: instructional materials to be used by students in the course shall:

a. Cover the subject matter in sufficient depth to achieve the stated course learning objectives;

b. Provide appropriately balanced coverage of the subject matter in view of the stated course learning objectives;

c. Reflect current knowledge and practice;

d. Contain no significant errors;

- e. Reflect correct grammatical usage and spelling;
  - f. Effectively communicate and explain the information presented;
  - g. Be suitable in layout and format; and
  - h. Be suitably bound/packaged and be produced in a quality manner.
5. Examinations for qualifying education: course examinations shall consist either of a series of examinations or a comprehensive final examination or both. The course examination(s) shall comply with the following requirements:
- a. Contain a sufficient number of questions to adequately test the subject matter covered in the course;
  - b. The amount of time devoted to the examination(s) is appropriate for the course;
  - c. The examination questions, individually and collectively, test at a difficulty level appropriate to measure student achievement of the stated course learning objectives;
  - d. The subject matter tested by examination questions is adequately addressed in the course instructional materials;
  - e. The examination questions are written in a clear and unambiguous manner; and
  - f. The examination questions are accurate and the intended correct answer is clearly the best answer choice.
6. Prerequisites: the course provider must have established appropriate prerequisites for any course other than an introductory course on basic real estate appraisal principles and practices or a course on appraisal standards and ethics.
7. Instructor qualifications: an instructor must be approved by the Board to teach a specific Board-approved course. An instructor must meet one or more of the following qualifications:
- a. A baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught; or
  - b. A masters degree in any field and two years of experience directly related to the subject matter to be taught; or
  - c. A baccalaureate degree in a field that is directly related to the subject matter to be taught and one year of experience directly related to the subject matter to be taught; or
  - d. An associate degree in a field that is directly related to the subject matter to be taught and three years of experience directly related to the subject matter to be taught; or
  - e. A masters or higher degree in a field that is directly related to the subject matter to be taught; or

- f. Five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or
  - g. Seven years of real estate appraisal experience directly related to the subject matter to be taught.
  - h. The national USPAP courses must be taught by an AQB certified USPAP instructor and equivalent USPAP courses must be taught by an instructor approved by the AQB.
- 8. Current classroom offering: conduct the course in a setting physically suitable to the educational activity of the course. Courses presented by distance education must comply with the criteria adopted in these rules;
- 9. Attendance policy: the course provider must have a written attendance policy that requires student attendance to be verified. Policy must:
  - a. Stipulate that the student must be present for the entire course;
  - b. Include on the attendance records form the name of the instructor(s);
  - c. Provide that nonmembers of the course provider's association or organization may apply for the course without membership in the association or organization;
  - d. Provide for retention of attendance records for a minimum of five years.
- 10. Course scheduling policy: the course provider shall have an established policy on course scheduling that provides a maximum of nine classroom hours of instruction in any given day and appropriate breaks during each class session.
- 11. Course completion certificate policy: the course provider shall have an established policy assuring prompt issuance of signed course completion certificates to attendees which shall include all information required on the form of certification provided by the Board.
- 12. Audit policy: the course provider shall permit the executive director or the executive director's representative to audit the course at no cost to the Board in order to evaluate the instruction. The course provider shall permit the executive director or the executive director's representative to review records appropriate to selected course offerings.
- 13. Instructor change: if a course provider wishes to use an instructor other than the instructor approved by the Board as part of the initial course approval, the course provider must apply to the Board for approval of any new or substitute instructor and pay the applicable fee. Any new or substitute instructor must meet the instructor qualifications set out in this section.
- 3. If a course is required for a license or certificate, the Course Provider shall give a comprehensive examination pertinent to the topics addressed in the course.

4. ~~The Course Provider shall conduct the course in a setting physically suitable to the educational activity of the program; and~~
5. ~~The Course Provider shall submit proof of compliance with the following standards. The Course Provider shall:~~
  - a. ~~Apply the Appraiser Qualification Criteria set forth in subsection (B)(1);~~
  - b. ~~Provide a copy of an attendance certificate to the student after completion of the course, indicating the name of the Course Provider, the name of the student, the title of the course, the number of classroom hours completed in the course, the dates the course was taken, and whether the students successfully completed any final examination;~~
  - c. ~~Maintain a record of registration, attendance, and examination for each student, for six years following the student's attendance in the course, and provide a copy of the record at the request of the Board or the student;~~
  - d. ~~Deny course credit to any student who does not meet requirements of the Appraisal Qualification Board;~~
  - e. ~~Use instructors with one or more of the following qualifications:~~
    - i. ~~At least, a bachelor's degree in the field of instruction or in a closely related field of instruction, or~~
    - ii. ~~Five years of work experience in the subject taught, or~~
    - iii. ~~A combination of education and work experience which the Board determines is substantially equivalent to the requirements in subsections (i) and (ii).~~

6J. ~~Course approval lasts is valid~~ for a period of one year, expiring at the end of the month in which approval was granted, ~~at which time the course provider shall re-apply for course approval of a course previously approved. if there have been no substantive changes to the materials to be addressed in the course, including but not limited to changes in the course outline, text, or other written material. No~~ later than 30 days prior to the expiration date, a ~~Course Provider~~ course provider may apply for ~~renewal of the course approval review of a course previously approved on the form provided by the Board~~ and pay the appropriate fee. ~~any~~ If there have been substantive change changes in the materials to be addressed in the classroom course, including but not limited to changes in the course outline, text, or other written material will require immediate re application and approval by the Board, the course shall be considered as a new course and the course provider shall file an application for course approval meeting all the requirements of this section and pay the appropriate fee.

DK. ~~The Board shall waive the course approval fee for a course offered outside of the state if the course was approved by the appraisal licensing or certifying authority in that state and the Board determines that the course meets the standards for course~~

~~approval set forth in these rules.~~ A course approved for credit hours at a community college, college or university in this state need not be approved by the Board if said course is substantially the same as required by the criteria. The applicant for licensure, certification or renewal shall submit documentation prepared by the course provider identifying the required core curriculum, the module subtopic and the number of course hours for qualifying education or the appraisal topic and the number of course hours for continuing education.

L. If a course is offered outside of Arizona, the course has been approved by the licensure/certification board in the state in which the course is offered, and the course is substantially the same as required by the criteria, the Board will accept the course. However, the course shall not be in the form of distance education taught before May 3, 2005. The applicant for licensure, certification or renewal must submit documentation to show approval.

EM. The Board shall investigate and may deny, revoke, or suspend course approval for any of the following acts or omissions:

1. Failure to comply with ~~the education~~ or meet any requirements set forth in this ~~article~~ section.
2. Failure to ~~operate as indicated in the application for course approval~~ use an instructor approved by the Board as part of the course approval application or otherwise.
3. Failure to instruct in a manner consistent with the outline and materials previously approved by the Board.

FN. If the Board finds that the public welfare or safety requires emergency action and incorporates a finding to that effect in its order, the Board shall order a summary suspension of course approval pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the ~~Course Provider~~ course provider with a written notice of summary suspension and formal hearing, listing the charges against the ~~course provider~~ course provider and setting a formal hearing within 30 days.

#### **R4-46-503. Hearing on Denial of Course Approval**

Any applicant or ~~Course Provider~~ course provider denied course approval or any course provider whose course approval is revoked or suspended may file a written request for a hearing within 30 days after service of the notice of denial. The Board shall process all hearings and disciplinary matters involving course approval in a manner consistent with the formal hearing procedures prescribed in Article 3.

## **COMPLAINT REVIEW**

Review and Action Concerning 2243, Dan G. Karas.

Respondent appeared. Charlie Havranek moved that the Board accept the investigator's report. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion. Charlie Havranek moved that the Board invite respondent to an informal hearing. Lee Ann Elliott seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2242, Gary S. Granville.

Debbie Rudd recused herself. Respondent appeared. Lee Ann Elliott moved that the Board accept the investigator's report. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion. Sarah Vetault moved that the Board invite respondent to an informal hearing. Lee Ann Elliott seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2276, Karl A. Webster.

Respondent appeared. Staff summary was read. Charlie Havranek moved that the matter be referred to an investigator. Lee Ann Elliott seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2275, David M. Hossfeld.

Respondent appeared. Staff summary was read. Sarah Vetault moved that the Board find no violations and dismiss the matter. Charlie Havranek seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2278, Safa P. Sitto.

Respondent appeared. Staff summary was read. Sarah Vetault moved that the matter be referred to an investigator. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2274, Cathy S. Mance.

Respondent appeared. Staff summary was read. Charlie Havranek moved that the Board find no violations and dismiss the complaint. Gabe Corral seconded the motion. The Board voted unanimously in favor of the motion. Charlie Havranek moved that the Board open complaint 2322 against Dana H. Vollmer, Certified Residential Appraiser No. 21177, alleging violations of USPAP. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2246/2247, Alan A. Gillmore.

Respondent did not appear. Staff summary was read. Sarah Vetault moved that the Board find Level I Violations and offer respondent a nondisciplinary letter of concern citing violations concerning 2246. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Sarah Vetault moved that the Board subpoena additional information concerning 2247. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2250, Anthony S. Catapano.



Respondent did not appear. Staff summary was read. Charlie Havranek moved that the Board issue an Emergency Order and Summary Suspension based on violations of A.R.S. §§ 32-3631(A)(5), 32-3631(A)(8), 32-3631(A)(2) and 32-3631(A)(1) to read as follows:

The Arizona Board of Appraisal ("Board"), having held a public meeting on January 18, 2007, regarding Anthony S. Catapano ("Mr. Catapano"), enters the following Findings of Facts, Conclusions of Law, and Order for Summary Suspension of License pending final disposition.

**PRELIMINARY FINDINGS OF FACT**

1. Mr. Catapano is a Certified Real Estate Appraiser. He is the holder of Certificate No. 21450.
2. Based on information received from Mr. Catapano and his supervising appraiser, Stephanie Pepper, it is believed that Mr. Catapano falsified his experience log submitted as part of his application for certification.

**PRELIMINARY CONCLUSIONS OF LAW**

1. The conduct and circumstances described above constitutes a violation of A.R.S. § 32-3631(A)(1), procuring or attempting to procure a license or certificate by knowingly making a false statement, submitting false information, refusing to provide complete information in an application for a license or certificate or committing any form of fraud or misrepresentation.
2. Mr. Catapano's license is subject to suspension and revocation under A.R.S. § 32-3631(A)(2) because he failed to meet the minimum qualifications of the Board's statutes and rules.
3. The conduct and circumstances described above constitutes a violation of A.R.S. § 32-3631(A)(5), an act or omission involving dishonesty, fraud or misrepresentation with the intent to substantially benefit the license or certificate holder or another person or with the intent to substantially injure another person.
4. The conduct and circumstances described above constitutes a violation of A.R.S. § 32-3631(A)(8), willfully disregarding or violating any of the provisions of the Board's statutes or rules.

**FINDING OF EMERGENCY**

Based upon the facts and circumstances set forth in the foregoing Preliminary Findings of Fact and Preliminary Conclusions of Law, the Board finds that the public health, safety and welfare imperatively require emergency action.

**ORDER**

IT IS THEREFORE ORDERED, Pursuant to A.R.S. § 41-1092.11(B) and AAC R4-46-301(E) and effective upon service of this Order, Certificate No. 21450, held by Anthony S. Catapano, is summarily suspended. Such suspension shall remain in effect until the conclusion of the administrative proceedings.

Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion upon the following roll call vote: Les Abrams--yes; Rod Bolden--yes; Gabe Corral--yes; Lee Ann Elliott--yes; Charlie Havranek--yes; Cynthia Henry--yes; Debbie Rudd--yes; Sarah Vetault--yes. Sarah Vetault moved that the Board open complaint 2323 against Stephanie L. Pepper, Licensed Residential Appraiser No. 11095, alleging falsification of an application. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2253, Darren M. Rasmussen.

Respondent did not appear. Staff summary was read. Sarah Vetault moved that the Board find no violations and dismiss the complaint. Charlie Havranek seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2264/2265, Kurt D. Holm.

Respondent did not appear. Staff summary was read. Charlie Havranek moved that 2264 be referred to an investigator. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Charlie Havranek moved that 2265 be referred to an investigator. Lee Ann Elliott seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2266, William M. Nold.

Respondent did not appear. Staff summary was read. Charlie Havranek moved that the matter be referred to an investigator. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2270/2271, Lisa D. Ammons.

Respondent did not appear. Staff summary was read. Charlie Havranek moved that the Board subpoena additional information. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2272, Timothy F. O'Connell/2273, Walter Winus III.

Respondents did not appear. Staff summary was read. Charlie Havranek moved that the Board find Level I Violations and offer each respondent a nondisciplinary letter of concern citing the violations. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2277, Eugene C. Rowe.

Respondent did not appear. Staff summary was read. Sarah Vetault moved that the matter be referred to an investigator. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Sarah Vetault moved that the Board issue a cease and desist letter to Kevin Fitzpatrick. Charlie Havranek seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2279, Cynthia L. Krei.

Respondent did not appear. Staff summary was read. Charlie Havranek moved that the Board subpoena additional information. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2306, Robert A. Williams.

Respondent did not appear. Staff summary was read. Charlie Havranek moved that the Board find Level II Violations and offer respondent a nondisciplinary letter of remedial action citing violations and requiring education. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion.

Myra Jefferson joined the meeting.

Review and Action Concerning 2280/2281/2282/2283/2284/2285/2286/2287/2288/2289/2290/2291/2292/2293/2294/2295/2296/2297/2298/2299/2300/2301, Kym R. Gaudette.

Respondent did not appear. Staff summary was read. Sarah Vetault moved that the matters be referred to an investigator. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2144/Marshall S. Coffman.

Respondent did not appear. Sarah Vetault moved that the Board find respondent in violation of the Consent Agreement and Order of Discipline; that the stay of suspension be lifted; and the Board issue an Order of Suspension to read as follows:

At its January 18, 2007, meeting, the Arizona State Board of Appraisal ("Board") found that Marshall S. Coffman ("Licensee") had not completed and/or not submitted proof of completion of the education required under paragraph 7 of that Consent Agreement. As a result, the Board lifted the stay on the six-month period of suspension contained in the Consent Agreement and Order of Discipline in Case No. 2144. Residential Appraiser License No. 10734 is suspended for a period of six months from January 18, 2007, pursuant to paragraphs 7 and 14 of the Consent Agreement.

During the period of suspension, Licensee may perform no appraisals in the State of Arizona.

Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. Myra Jefferson moved that the suspension become effective immediately upon signature of the order. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2158/Tamra L. Hoffman.

Respondent did not appear. Sarah Vetault moved that the Board accept the nondisciplinary letter of concern, which was signed late by respondent. Lee Ann Elliott seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2196/Todd J. Stewart.

Respondent did not appear. Sarah Vetault moved that the Board open complaint 2324 against respondent for noncompliance with the Consent Agreement and Order of Discipline. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Christopher Munns, Assistant Attorney General, joined the meeting.

Review and Action Concerning Issues Dealing With Formal Hearing Concerning 07F-6189-BOA, David S. Roth.

Respondent appeared and was represented by his attorney, David P. DeCosta, Esq. Elizabeth A. Campbell, Assistant Attorney General, represented the State of Arizona. Christopher Munns, Assistant Attorney General, Solicitor General's office, advised the Board. The Board, having reviewed the record, heard oral argument on behalf of the parties. Charlie Havranek moved that the Board reconsider its prior finding. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion. Debbie Rudd moved that the Board find application 6189 substantively complete. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2231, Carolina Nuno.

Respondent did not appear. Lee Ann Elliott moved that the Board accept the investigator's report. Charlie Havranek seconded the motion. The Board voted unanimously in favor of the motion. Charlie Havranek moved that respondent be invited to an informal hearing. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning Superior Court Appeal CV-2006-4140 (04F-1498-BOA/04F-1782/04F-1784-BOA), Felicia M. Coplan.

Respondent and her counsel did not appear. Elizabeth A. Campbell, Assistant Attorney General, represented the Board. Charlie Havranek moved that the Board go into Executive Session for legal advice and for discussion with the Board's attorneys regarding pending litigation and to consider its position and instruct its attorneys regarding same. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion. Upon return from Executive Session, Sarah Vetault moved that the Board not appeal the 1/4/07 Order entered by the Mohave County Superior Court. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. Elizabeth A. Campbell, Assistant Attorney General, represented the State of Arizona. Christopher Munns, Assistant Attorney General, Solicitor General's office, advised the Board. Sarah Vetault moved that the Board moved that the Board go into Executive Session for legal advice. Rod Bolden seconded the motion. The Board voted unanimously against the motion.

Lee Ann Elliott left the meeting.

Charlie Havranek moved that the State's attorney draft a proposed revised Findings of Fact, Conclusions of Law, and Order of Probation for the Board's consideration. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion. Debbie Rudd abstained.

Christopher Munns, Assistant Attorney General, Solicitor General's office, left the meeting.

Review and Action Concerning Appellate Court Case 1CA-CV 05-0868 (98F-0544-BOA), Lawrence D. Bloom.

Respondent did not appear. Elizabeth Campbell updated the Board with the status of respondent's appeal.

Review and Action Concerning 2227, Felicia M. Coplan.

Respondent did not appear. Sarah Vetault moved that the Board close the complaint. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2235, Claire A. Williamson-Redding.

Respondent did not appear. Charlie Havranek moved that the Board accept the investigator's report. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Charlie Havranek moved that respondent be invited to an informal hearing. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2240, Anna M. Diaz.

Respondent did not appear. Sarah Vetault moved that the Board accept the investigator's report. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Sarah Vetault moved that respondent be invited to an informal hearing. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Sarah Vetault moved that the Board open complaint 2325 against Mark L. Andrews, Certified General Appraiser No. 30830, alleging violations of USPAP. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2241, James P. Hondel.

Respondent did not appear. Charlie Havranek moved that the Board find no violations and dismiss the complaint. Sarah Vetault seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action Concerning 2244, Laura J. Kokot.

Respondent did not appear. Sarah Vetault moved that the Board accept the investigator's report. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion. Sarah Vetault moved that respondent be invited to an informal hearing. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion.

The Board noted there were no 12-month reviews.

**BOARD CHAIRPERSON REPORT**

Les Abrams updated the Board concerning the status of its legislative bill amending its statutes.

**EXECUTIVE DIRECTOR REPORT**

Debb Pearson reported on the status of the Assistant Attorney General=s assignments; advised no answer dates for complaints had been extended by staff; reported the following complaint status for calendar years 2005 and 2006:

	<u>2005</u>	<u>2006</u>
Complaints filed	106	209
Complaints dismissed	47	56
Complaints referred to investigation	49	40
Complaints resolved with nondisciplinary letter of concern	11	25
Complaints resolved with nondisciplinary letter of remedial action	9	5
Complaints resolved with disciplinary letter of due diligence	3	4
Complaints resolved with probation	5	7
Complaints referred to informal hearing	22	26
Complaints referred to formal hearing	6	4

Complaints resolved with suspension		1	4
Complaints resolved with surrender		0	1
Complaints resolved with revocation	1	0	
Complaints resolved with cease and desist letters		3	22

Violation Levels:

I	12	28
II	4	6
III	2	2
IV	0	0
V	3	8

and updated the Board concerning the mortgage fraud task force formed by the Department of Financial Institutions.

#### **APPLICATION REVIEW COMMITTEE REPORT**

Les Abrams reported the following Arizona appraiser and property tax agent information as of January 17, 2007:

Licensed Residential	1079	
Certified Residential	977	
Certified General	767	
Nonresident Temporary	49	Total 2871
Property Tax Agents	289	

Charlie Havranek moved that the Board accept the Committee=s recommendations (see attached). Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

#### **APPRAISAL TESTING AND EDUCATION COMMITTEE REPORT**

Charlie Havranek moved that the Board accept the Committee=s recommendations (see attached). Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. Staff was instructed to place on the next Board agenda: Adding a requirement that all applicants for licensure/certification must attend a Board meeting.

#### **OLD BUSINESS**

##### Update on the Zillow.com Referral to Criminal Division of the Attorney General's Office.

The Board was updated that in addition to the two cease and desist letters issued by the Board to Zillow.com, the Criminal Division of the Assistant Attorney General's office issued Zillow.com a letter advising of possible criminal violations.

## **NEW BUSINESS**

### Discussion and Action Regarding the Election of Board Officers.

Rod Bolden nominated Les Abrams as Chairperson of the Board. Charlie Havranek seconded the nomination. The Board voted unanimously in favor of the nomination. Rod Bolden nominated Charlie Havranek as Vice Chairperson of the Board. Les Abrams seconded the nomination. The Board voted unanimously in favor of the nomination.

### Discussion and Action Regarding the Implementation of Requiring a Criminal Background Check, Including the Fingerprinting of Every Applicant for an Original License or Certificate Pursuant to A.R.S. § 32-3620(B).

Sarah Vetault moved that the Board implement the fingerprinting requirement for original applicants. Rod Bolden seconded the motion. The Board voted unanimously in favor of the motion.

### Review and Action Concerning Approval of Proposed Disciplinary Mentors.

Sarah Vetault moved that disciplinary mentors approved after January 1, 2007, must be in good standing with a minimum of four years as a practicing appraiser and not subject to license/certificate suspension, probation or mentorship within the prior two years.

## **CONFIRMATION OF MEETING DATES, TIMES, LOCATIONS AND PURPOSES**

The upcoming Committee and Board meetings were scheduled as follows:

### February

14	Application Review Committee	1:00 p.m.
15	Appraisal Testing and Education Committee	8:30 a.m.
15	Board	9:00 a.m.

## **ADJOURNMENT**

The meeting was adjourned.

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Lester G. Abrams, Chairperson